

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION)	MDL 2804
OPIATE LITIGATION)	
)	Case No. 1:17-md-2804
THIS DOCUMENT RELATES TO:)	
)	Judge Dan Aaron Polster
Lac Du Flambeau Band of Chippewa)	
Indians v. McKesson Corporation, et)	TRIBAL PLAINTIFFS' SHORT FORM
al. – 1:18-op-45502)	FOR SUPPLEMENTING COMPLAINT
)	AND AMENDING DEFENDANTS AND
)	JURY DEMAND

Plaintiff submits this supplemental pleading and Amended Complaint incorporating as if fully set forth herein its own prior pleadings and, if indicated below, the common factual allegations identified and the RICO causes of action included in *Muscogee (Creek) Nation's* First Amended Complaint, (Doc. 731, 1:17-md-02804) and *The Blackfeet Tribe of the Blackfeet Indian Reservation's* Corrected First Amended Complaint (Redacted), (Doc. 9, 18-op-45749), both as pleaded and as may be amended in the future ("Tribal Bellwether Plaintiffs' pleadings"), and any additional claims asserted herein. Plaintiff also hereby amends its complaint to alter the defendants against which claims are asserted as identified below. To the extent defendants were previously sued in plaintiff(s)' existing complaint and they are no longer identified as defendants herein, they have been dismissed without prejudice except as limited by CMO-1, Section 6(e). Doc. #: 232.

INCORPORATION BY REFERENCE OF EXISTING COMPLAINT

1. Plaintiff(s)' Existing Complaint (No. 1:18-op-45502, Doc. #:1) is expressly incorporated by reference to this Short Form as if fully set forth herein except to the extent that allegations regarding certain defendants that are not listed in section 2 below are dismissed without prejudice.

PARTIES - DEFENDANTS

2. Having reviewed the relevant ARCOS data Plaintiff asserts claims against the following Defendants:

McKesson Corporation; Cardinal Health, Inc.; AmerisourceBergen Corporation; AmerisourceBergen Drug Corporation; CVS Health Corporation; Walgreens Boots Alliance, Inc.; Walmart Stores, Inc.; Purdue Pharma L.P.; Purdue Pharma, Inc.; The Purdue Frederick Company, Inc.; Teva Pharmaceuticals Industries, LTD.; Teva Pharmaceuticals USA, Inc.; Cephalon Inc.; Johnson & Johnson; Janssen Pharmaceuticals, Inc.; Ortho-McNeil-Janssen Pharmaceuticals, Inc.; Janssen Pharmaceutica Inc.; Endo Health Solutions Inc.; Endo Pharmaceuticals, Inc.; Watson Pharmaceuticals, Inc.; Watson Laboratories, Inc.; Actavis LLC; Actavis Pharma, Inc.; Allergan PLC; Allergan Finance, LLC; Allergan USA, Inc.; Mallinckrodt, PLC; SpecGX LLC; Mylan Pharmaceuticals, Inc.; Par Pharmaceutical; West-Ward Pharmaceuticals Corp.; Sandoz Inc.; and John Does 1-100.

I, T. Roe Frazer II, Counsel for Plaintiff(s), certify that in identifying all Defendants, I have followed the procedure approved by the Court and reviewed the ARCOS data that I understand to be relevant to Plaintiff(s).

I further certify that, except as set forth below, each of the Defendant(s) newly added herein appears in the ARCOS data I reviewed.

I understand that for each newly added Defendant not appearing in the ARCOS data I must set forth below factual allegations sufficient to state a claim against any such newly named Defendant that does not appear in the ARCOS data.

The following newly added Defendant(s) *do not appear* in the ARCOS data I reviewed:

- NA -

Dated: August 12, 2019

Signed: s/ T. Roe Frazer, II

Factual Allegations Regarding Newly Added Individual Defendants

2.1 SpecGx, LLC is a Delaware limited liability company with its headquarters in Clayton, Missouri and is a wholly owned subsidiary of Defendant Mallinckrodt PLC. SpecGx, LLC is registered to conduct business and/or conduct business in Plaintiff's community as a licensed wholesale pharmaceutical distributor. At all relevant times, SpecGx, LLC has sold and continues to sell prescription opioids at locations near the Tribes, including in close proximity to hospitals, clinics, and other healthcare facilities serving the Tribe Members. SpecGx, LLC has taken actions that have harmed the Tribes and Tribe Members and it has purposefully availed itself of the advantages of conducting business within the economic proximity of the Tribes. SpecGx, LLC appears in the ARCOS data reviewed. SpecGx, LLC is being sued as a Marketing Defendant.

2.2 Par Pharmaceutical Companies, Inc. is a Delaware corporation with its principal place of business located in Chestnut Ridge, New York. Par Pharmaceutical, Inc., and Par Pharmaceutical Companies Inc., (collectively “Par Pharmaceutical”) was acquired by Endo International plc in September 2015 and is an operation company of Endo International plc. At all relevant times, Par Pharmaceutical has sold and continues to sell prescription opioids at locations near the Tribes, including in close proximity to hospitals, clinics, and other healthcare facilities serving the Tribe Members. Par Pharmaceutical has taken actions that have harmed the Tribes and Tribe Members and it has purposefully availed itself of the advantages of conducting business within the economic proximity of the Tribes. Par Pharmaceutical appears in the ARCOS data reviewed. Par Pharmaceutical is being sued as a Marketing Defendant.

2.3 Defendant Mylan N.V. f/k/a Mylan Inc. is a global pharmaceutical company incorporated in the Netherlands that maintains its headquarters in Canonsburg, Pennsylvania. Defendant Mylan Pharmaceuticals Inc. (together with Mylan N.V., “Mylan”) is based in Canonsburg, Pennsylvania and operates as a subsidiary of Mylan N.V. At all relevant times, Mylan has sold and continues to sell prescription opioids at locations near the Tribes, including in close proximity to hospitals, clinics, and other healthcare facilities serving the Tribe Members. Mylan has taken actions that have harmed the Tribes and Tribe Members and it has purposefully availed itself of the advantages of conducting business within the economic proximity of the Tribes. Mylan appears in the ARCOS data reviewed. Mylan is being sued as a Marketing Defendant.

2.4 Sandoz Inc., based in Princeton, New Jersey and formerly known as Geneva Pharmaceuticals Technology Corporation, operates as a subsidiary of Sandoz International, and develops, manufactures, markets, and distributes generic pharmaceutical products. Sandoz Inc., Sandoz International, and Novartis are referred to herein as “Sandoz.” At all relevant times, Sandoz has sold and continues to sell prescription opioids at locations near the Tribes, including in close proximity to hospitals, clinics, and other healthcare facilities serving the Tribe Members. Sandoz has taken actions that have harmed the Tribes and Tribe Members and it has purposefully availed itself of the advantages of conducting business within the economic proximity of the Tribes. Sandoz appears in the ARCOS data reviewed. Sandoz is being sued as a Marketing Defendant.

2.5 West-Ward Pharmaceuticals Corp., k/n/a Hikma Pharmaceuticals, Inc. (“West-Ward”) is a Delaware corporation with its headquarters in Eatontown, New Jersey. At all relevant times, West-Ward has sold and continues to sell prescription opioids at locations near the Tribes, including in close proximity to hospitals, clinics, and other healthcare facilities serving the Tribe Members. West-Ward has taken actions that have harmed the Tribes and Tribe Members and it has purposefully availed itself of the advantages of conducting business within the economic proximity of the Tribes. West-Ward appears in the ARCOS data reviewed. West-Ward is being sued as a Marketing Defendant.

COMMON FACTUAL ALLEGATIONS

3. By checking the boxes in this section, Plaintiff hereby incorporates by reference to this document the common factual allegations set forth in the *Tribal Bellwether Plaintiffs'* Pleadings as identified in the Court's Order implementing the Tribal Plaintiff Short Form

procedure. Doc. # 1742

Muscogee (Creek) Nation's First Amended Complaint. (Doc. 731, 1:17-md-02804):

- ☒ Common Factual Allegations (¶¶96 - 98)
- ☒ Common Factual Allegations - Marketing Manufacturers (¶¶, 99-156)
- ☒ Common Factual Allegations - Generic Marketing Manufacturers (¶¶ 57-161)
- ☒ Common Factual Allegations - Diversion Defendants, (¶¶162-165)
- ☒ Common Factual Allegations - Diversion Defendants and Distributor Defendants (¶¶ 166-169, 200-211)
- ☒ Common Factual Allegations - Distributor Defendants (¶¶212-223 230-236)
- ☒ Common Factual Allegations - Pharmacy Defendants (¶¶170-177, 237-262)
- ☒ Common Factual Allegations - Diversion Manufacturer Defendants (¶¶224-229)
- ☒ Common Factual Allegations - RICO Marketing Enterprise (¶¶295-328)
- ☒ Common Factual Allegations - RICO Supply Chain Enterprise (¶¶329-352)

The Blackfeet Tribe of the Blackfeet Indian Reservation's Corrected First Amended Complaint (Redacted), (Doc. 97 18-op-45749):

- ☒ Common Factual Allegations (¶¶99 - 143, 480 -585 636 -650, 721 -735)
- ☒ Common Factual Allegations - Marketing Defendants (¶¶144 -468, 701-720, 736-763)
- ☒ Common Factual Allegations - Distributor Defendants (¶¶469-473)
- ☒ Common Factual Allegations - Supply Chain Defendants (¶¶474-479)
- ☒ Common Factual Allegations - National Retail Pharmacy Defendants (¶¶586-635)
- ☒ Common Factual Allegations - RICO Marketing Enterprise (¶¶764- 798)
- ☒ Common Factual Allegations - RICO Supply Chain Enterprise (¶¶799-82 7)

4. If additional claims are alleged below that were not pled in Plaintiff's Existing Complaint (other than the RICO claims asserted herein), the facts supporting those allegations must be pleaded here. Plaintiff(s) assert(s) the following additional facts to support the claim(s) identified in Paragraph 6 below (below or attached):

- NA -

CLAIMS

5. The following federal **RICO causes of action** asserted in the *Tribal Bellwether Plaintiffs'* Pleadings as identified in the Court's implementing order and any subsequent amendments, are incorporated in this Short Form by reference, in addition to the causes of action already asserted in the Plaintiff(s)'s Existing Complaint (check all that apply):

☒ First Claim for Relief - Violation of RICO, 18 U.S.C. § 1961 *et seq.* - Opioid Marketing Enterprise (Against the "Marketing Manufacturer Defendants") (*Muscogee (Creek)* Pleadings, Paragraphs 353-379)

☒ First Claim for Relief - Violation of RICO, 18 U.S.C. § 1961 *et seq.* - Opioid Marketing Enterprise (Against Defendants Purdue, Cephalon, Janssen, Endo and Mallinckrodt (the "RICO Marketing Defendants")) (*Blackfeet* Pleadings, Paragraphs 828-855)

☒ Second Claim for Relief - Violation of RICO, 18 U.S.C. § 1961 *et seq.* - Opioid Supply Chain Enterprise (Against All Defendants) (*Muscogee (Creek)* Pleadings, Paragraphs 380-408)

☒ Second Claim for Relief - Violation of RICO, 18 U.S.C. § 1961 *et seq.* - Opioid Supply Chain Enterprise (Against Defendants Purdue, Cephalon, Endo, Mallinckrodt, Actavis, McKesson, Cardinal, and AmerisourceBergen (the "RICO Supply Chain Defendants")) (*Blackfeet* Pleadings, Paragraphs 856-887)

6. Plaintiff asserts the following **additional claims** as indicated (below or attached):
- NA -

7. To the extent Plaintiff(s) wish(es) to **dismiss claims** previously asserted in Plaintiff(s)'s Existing Complaint, they are identified below and will be dismissed without prejudice.

- NA -

WHEREFORE, Plaintiff(s) prays for relief as set forth in the *Tribal Bellwether* Pleadings in *In Re National Prescription Opiate Litigation* in the United States District Court for the Northern District of Ohio, MDL No. 2804 and in Plaintiff's Existing Complaint as has been amended herein.

Dated: August 12, 2019

/s/ T. Roe Frazer II

Attorney for Plaintiff(s)